IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09/02/2004

CORAM

THE HONOURABLE MR. JUSTICE P.D.DINAKARAN

W.P.No.13682 of 1997 and W.P.No. 14096 of 1997

Marappan .....Petitioner in
W.P.No.13682 of 1997

Mariammal .....Petitioner in
W.P.No.14096 of 1997

- Vs -

1. The Collector,
Dharmapuri District.

2. The Special Tahsildar,
Adi Dravida Welfare,
Krishnagiri. .....Respondents in
both W.Ps

Writ Petitions under Article 226 of the Constitution of India,
praying for issuance of a Writ of Certiorari and Mandamus, as stated therein.

For Petitioners :: Mr. V.Raghavachari

For Respondents :: Mr. P.S.Jayakumar
Government Advocate

:O R D E R
The petitioner in W.P.No.13682 of 1997 is the owner of the land of an extent of 0.61 hectares in S.No.506/2 and 512 in Agasipalli Village, Krishnagiri Taluk, Dharmapuri District.

2. Admittedly, after an inspection of the said properties by the second respondent on 02.12.1996, a notice in Form I under Section 4(2) of the Tamil Nadu Acquisition of land for Harijan Welfare Schemes Act 1978( in brevity Act) was issued on 26.12.1996, proposing to acquire the land for the purpose of providing house plots to the Adi Dravidars in the village. In the said notice, the name of the petitioner in W.P.No.13682 of 1997 alone was shown as the owner of the land. Concededly, the petitioner in W.P.No.13682 of 1997 sold the land of an extent of 1 acre in S.Nos.506/2 and 512 in Agasipalli Village, Krishnagiri Taluk, Dharmapuri District to the petitioner in W.P.No.14096 of 1997 by a registered sale deed executed on 16.12.1996. The

petitioner in W.P.No.13682 of 1997 therefore submitted his objection dated 12.01.1997 to the second respondent herein explaining that he had already sold the property to the petitioner in W.P.No.14096 of 1997 and requested him to give notice to the petitioner in W.P.No.14096 of 1997 also before proceeding further in the matter.

3. However, the second respondent, without giving any notice to the petitioner in W.P.No.14096 of 1997 issued the Notification under Section 4(1) of the Land Acquisition Act dated 25.02.1997. Hence, these two writ petitions.

4. Mr.V.Raghavachari, learned counsel appearing for the petitioners challenges the impugned Notification on the following grounds:-

(i) The impugned Notification made under Section 4(1) of the Act is arbitrary, unreasonable and the same suffers from non-application of mind to the effect that the respondent / land acquisition officer failed to take note of the fact that the petitioner in W.P.No.13682 of 1997 had sold the property to the petitioner in W.P.No.14096 of 1997 . Therefore, the petitioner in W.P.No.14096 of 1997 should have been given a notice in Form I under Section 4(2) of the Act.

(ii) The failure on the part of the second respondent to give notice to the petitioner in W.P.No.14096 of 1997 in spite of the objections made by the petitioner in W.P.No.13682 of 1997, vitiates the entire land acquisition proceedings.

(iii) The mere preliminary inspection alleged to have been made by the second respondent on 02.12.1996 for locating and acquiring the property for the purpose of providing house plots to Adi Dravidars would not be a bar for the owner of the land viz., the petitioner in W.P.No.13682 of 1997 to sell his land viz., an extent of one acre in S. Nos.506/2 and 512 in Agasipalli Village, Krishnagiri Taluk, Dharmapuri District to the petitioner in W.P.No.14096 of 1997.

5.1. Per contra, learned Additional Government Pleader submits that since the petitioner in W.P.No.14096 of 1997 had purchased an extent of 1 acre land in S.Nos.506/2 and 512 in Agasipalli Village, Krishnagiri Taluk, Dharmapuri District on 16.12.1996, subsequent to the preliminary inspection by the second respondent on 02.12.1996, such transaction by the petitioner in W.P.NO.13682 OF 1997 will not vitiate the land acquisition proceedings.

5.2. Section 4(2) of the Act contemplates notice only to the owner of the land or any other interested party in the opinion of the land acquisition authorities. Since the name of the petitioner in W.P.No.1 4096 of 1997 was not entered into the revenue records as on 26.12.199 6, even though he had become the absolute owner by virtue of the sale deed dated 16.12.1996, notice was issued only to the original owner, whose name appears in the

revenue records and therefore, the petitioner in W.P.No.14096 of 1997 has no locus standi to challenge the impugned land acquisition proceedings.

5.3. In any event, it is contended that the respondents have taken possession of the impugned lands and also handed over the same to the beneficiaries who have put up construction and therefore, the land acquisition proceedings cannot be quashed.

6. I have given careful consideration to the submissions of the learned counsel for the petitioner and the learned Government Advocate for the respondents.

7. It is clear from the files that the preliminary inspection of the property was made on behalf of the respondents on 02.12.1996. The second respondent in his proceedings dated 05.12.1996 recommended to the first respondent to acquire the property for the purpose of providing house sites to Adidravidars. Concededly, after the preliminary inspection of the property, the petitioner was not given any notice for such inspection. Therefore, neither the findings arrived at on the basis of the inspection held on 02.12.1996 nor the recommendations of the second respondent made in his proceedings dated 05.12.1996, recommending for the acquisition of the lands would be binding on the petitioner in W.P.No.14096 of 1997.

8. The petitioner in W.P.No.13682 of 1997, being the owner of the land could not be restrained from exercising his right to sell the impugned property, unless and until the competent authorities issues a statutory Notification proposing to acquire the said land. Therefore, sale of one acre by the petitioner in W.P.No.13682 of 1997 in S.No.506/2 and 512 in Agasipalli Village, Krishnagiri Taluk, Dharmapuri District to the petitioner in W.P.No.14096 of 1997 by a registered sale deed executed on 16.12.1996 could not be held to be either invalid or illegal nor the same could be doubted.

9. Even though the District Collector or the officer authorised by him did not give notice under Section 4(2) of the Act to the land owner or any other person interested in the same, in the opinion of the District Collector or the officer authorised by him, as the name of the petitioner in W.P.No.14096 of 1997 did not appear in the revenue records maintained by the respondents, the respondents, having received the objection in W.P.No.13682 of 1997 dated 12.01.1997 to the effect that he had already sold the property to the petitioner in W.P.No.1 4096 of 1997, ought to have given a notice under Section 4(2) of the Act to the petitioner in W.P.No.14096 of 1997 before proceeding further in the matter.

10. I do not see any illegality or irregularity in issuing the Notification under Section 4(1) of the Act with regard to 51 cents retained by the petitioner in W.P.No.13682 of 1997 and the decision of the respondents in over-ruling the objections.

11. In the result, while dismissing the writ petition filed by the petitioner in W.P.No.13682 of 1997, taking note of the fact that the respondent had already taken possession of the land to an extent of one acre

in S.Nos.506/2 and 512 in Agasipalli Village, Krishnagiri Taluk, Dharmapuri District and issued patta to the beneficiaries viz., Adi dravidars who had also constructed their houses, I am inclined to direct the respondents to give notice to the petitioner in W.P.No.14 096 of 1997 for determining of the amount payable to the petitioner in W.P.No.14096 of 1997, taking the date of disposal of the writ petition viz., 09.02.2004 as the date of Notification under Section 4(2) of the Act, as the amount already determined under Section 7 of the Act insofar as one acre of land in S.Nos.506/2 and 512 in Agasipalli Village, Krishnagiri Taluk, Dharmapuri District is not binding the petitioner in W.P.No.14096 of 1997.

12. Accordingly, W.P.No.13682 of 1997 is dismissed and W.P.No.14096 of 1997 is ordered accordingly. No costs.

Dpn/-